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**FISCAL IMPACT STATEMENT**

**LS 6909**

**BILL NUMBER:** SB 246

**NOTE PREPARED:** Dec 29, 2005

**BILL AMENDED:**

**SUBJECT:** Sex Offenders.

**FIRST AUTHOR:** Sen. Wyss

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill specifies that a sex offender's principal residence is the residence where the offender spends the most time.

The bill expands the definition of "sexually violent predator" to include a person with a prior conviction for a sex offense, a person who committed a sex offense against a person less than 14 years of age, and a person who committed a sex offense by using force or the threat of force or by rendering the victim unconscious.

It imposes additional registration requirements on sex offenders, including a requirement that a sexually violent predator notify law enforcement officials if the predator will be absent from the predator's principal residence for more than 72 hours. It also requires a sexually violent predator to initially register not more than 72 hours after release from incarceration or supervision, and requires all sex offenders to register in person at least once per year.

The bill requires a sex offender to possess a valid driver's license or state identification card. It requires a sex offender who temporarily resides in transitional housing to register once every seven days, and prohibits a sexually violent predator from working or volunteering on school property or at a public park or youth program center. It also provides various penalties for violations of these provisions. The bill makes certain other changes.

**Effective Date:** July 1, 2006.

**Explanation of State Expenditures:** *Expansion of Definition of Sexually Violent Predator:* Under current

law, sexually violent predators are determined in a court of law based on evidence provided by the prosecuting attorney in a hearing. They are currently defined in statute as an individual who suffers from a mental abnormality or personality disorder that makes the individual likely to repeatedly engage in additional sex and violent offenses in the future.

This bill would expand the definition of SVP to include a person who has committed a sex and violent offense under IC 5-2-12-4 and who: (1) has a previous conviction for a sex and violent offense, (2) committed a sex and violent offense by: (a) using force or threat of force, (b) rendering the victim unconscious or otherwise unable of giving voluntary consent, or (c) against a child less than 14 years of age; or (3) has been found by the court to suffer from a mental abnormality or personality disorder that makes the individual likely to repeatedly engage in a sex and violent offense.

Under current law, all persons falling under the proposed definition of an SVP would be required to register for life with the exception of persons convicted of a sex and violent offense against a child less than 14 years of age. Current statute requires persons convicted of a sex and violent offense against a child less than 12 years of age to register for life. As a result, the number of persons required to register for life would increase, and subsequently the number of persons monitored by local law enforcement agencies for life would increase as well. Details of what monitoring entails are provided below.

In CY 2004, 1,142 offenders were committed to DOC for the offenses listed in the proposed statute for becoming an SVP. It should be noted that this number includes persons that would already be defined under current law as SVPs. The ICJI, however, reports that very few individuals are classified as SVPs. Currently, there are approximately 14,537 individuals listed on the Sex and Violent Offender Directory, 43 are identified as an SVP. In FY 2005, five SVPs were added to the directory.

Sheriffs (or the police chief of a consolidated city) are statutorily required to verify a sex offender's current residence. This includes mailing each offender a registration form beginning seven days after they have received notice of the date the offender is (a) released from a penal facility, a secure private facility, or a juvenile detention facility; (b) placed in a community transition program; (c) placed in a community corrections program; (d) placed on parole; or (e) placed on probation. Forms are mailed to sex offenders (SO) annually and to SVPs every 90 days. If an offender fails to return a signed registration form, the sheriff (or the police chief of a consolidated city) is required to immediately notify the ICJI and the prosecuting attorney. It is a Class D felony for a sex offender to fail to register. It is a Class C felony if they have a prior unrelated conviction under the provision. Prosecuting attorneys would experience an increase in workload. The Indiana Sheriffs' Association reports that whether or not prosecuting attorneys charge an SO or SVP with not registering is dependent on the county. In CY 2004, there were 23 persons convicted for not registering.

An increase in the number of SVPs would result in an increase in workload for sheriffs (or a police chief of a consolidated city). Additionally, expenditures would increase for postage. The Indiana Sheriffs' Association (ISA) reports that counties vary as to methods used for mailing registration forms to offenders. Some counties send the forms certified mail, with the majority using regular mail through the United States Post Office. Currently, postage to mail a letter is \$0.37; the cost is \$4.42 to send a one-ounce certified mail letter with a return receipt requested.

Table A shows the number of SVPs committed to the DOC in CY 2004 and their earliest projected release. Assumptions were made when calculating Table A which included: time served for good time, use of fixed term of incarceration, and that the offender is incarcerated in CY 2006.

<b>Table A. Sex Offenders Committed to DOC in CY 2004 and Year of their Earliest Projected Release.</b>	
<b>Year Released</b>	<b>Number of Felony Offenders Released</b>
2007 Total	63
2008 Total	190
2009 Total	302
2010 Total	15
2011 Total	89
2012 Total	269
2013 Total	67
2014 Total	1
2019 Total	4
2029 Total	107
2037 Total	24
2045 Total	11
Grand Total	1,142

Table B presents information pertaining to the total number of additional SVPs which would have to be monitored by local law enforcement agencies. Numbers presented include number released each year and number released in prior years already being monitored.

<b>Table B. Sex Offenders Released.</b>	
<b>Year</b>	<b>Number of Felony Offenders Requiring Monitoring</b>
2007 Total	63
2008 Total	316
2009 Total	871
2010 Total	1,441
2011 Total	2,100
2012 Total	3,028
2013 Total	4,023
2014 Total	2,018
2015 Total	6,013
2016 Total	7,008
2017 Total	8,003
2018 Total	8,998
2019 Total	9,993
2020 Total	10,988
2021 Total	11,983
2022 Total	12,978

*Registration Requirements:* The bill would require a sex offender to register in their county of residence, county of employment, and county of attendance at a public or private educational institution. Under current law, a sex offender is required to register at only one of the aforementioned locations. This provision of the bill

would create additional workload for local law enforcement agencies. The number of sex offenders that currently register in only one county is unknown. Actual increases in workload are dependent on the number of sex offenders registering in additional counties.

*Photographs and Annual Reporting:* The bill requires a photograph be taken of a sex offender by a local law enforcement agency at least once a year. It also requires a sex offender to report in person to a local law enforcement agency, complete a registration form, and be photographed. The Indiana Sheriffs' Association reports that this is current practice. Thus, no additional fiscal impact is anticipated as a result of either provision.

*Temporary Residence:* The bill creates a definition for temporary residence and requires an SVP to register every seven days following their initial registration. This provision of the bill would also create additional workload for local law enforcement agencies. The number of SVPs that would register at a temporary residence is unknown. In addition, the amount of time, or number of times they would be required to register under the provisions of this bill, is unknown. Actual increases in workload are dependent on the number of SVPs registering at temporary residences and the number of times in which they would be required to register.

*Sex Offender Registration Form:* Under IC 5-2-12-6, information collected to fulfill registration requirements for sex offenders currently includes the following: full name, alias, any name by which the offender was previously known, date of birth, sex, race, height, weight, hair color, eye color, Social Security number, driver's license number, and home address; a description of the offender's offense, the county, date, cause number of the conviction, and the sentence imposed; registration requirements for the offender, the name and address of each of the offender's employers in Indiana, the name and address of each campus or location where the offender is enrolled in school in Indiana, and the address where the offender stays or intends to stay while in Indiana (note: employer and school information is required when applicable); a recent photograph; and any other information required by the ICJI.

This bill would add scars, marks, tattoos, state identification number (instead of driver's license number), and mailing address (if different from the principal residence, or home, address). The information collected is then entered into the Sex Offender Registry. Currently, changes are being made to the registry (see *Background Information*). The DOC estimates the cost to change the information collected and the database in which the information is entered to be between \$4,250 and \$5,500.

*Background Information on the Sex Offender Registry and Sex and Violent Offender Directory:* The Indiana Sheriffs' Association reports that it is currently working in conjunction with the ICJI and the DOC to combine the Sex Offender Registry and the Sex and Violent Offender Directory. The Sex and Violent Offender Directory is maintained by the ICJI; the Sex Offender Registry is maintained by the Indiana Sheriffs' Association. The DOC reports that the new database will allow law enforcement and the public one place to access information on sex offenders. This new database will be in place by January of 2006.

Current law requires all information collected under IC 5-2-12-6 be available through the Sex Offender Registry website. Thus, changes to information collected would result in changes to the new database. These would include changes to the centralized database and database structure, to forms used by sheriffs for data collection, and to the public viewable data.

The DOC reports that Appriss, Incorporated, the company currently working with the Indiana Sheriffs' Association, ICJI, and DOC to merge the Registry and Directory, estimates that as proposed, the cost to the

state would be in the range of \$4,250 to \$5,500. These changes would include approximately 6-8 hours for database modifications; 12-16 hours for adding to, testing, and redeploying the entry portal; and 12-16 hours in adding to, testing, and redeploying the portal used by the public to view sex offender information.

*Penalty Provisions:* The bill adds several new penalties to current law (see following table). All are applicable to crimes committed after June 30, 2006.

<b>New Penalties for Sex Offenders (SOs) and Sexually Violent Predators (SVPs).</b>			
<b>Offense</b>	<b>Penalty (SOs)</b>	<b>Penalty (SVPs)</b>	<b>If SO or SVP has a Prior under the Provision</b>
Knowingly or intentionally not possess identification.	Class A misdemeanor	Class D felony	Class D felony
Make a material misstatement or omission on a registration form; fail to return a completed/signed registration form within 14 days; or fail to register in person and be photographed at least one time per year.	Class D felony	NA	Class C felony
Knowingly or intentionally not notify a sheriff (or police chief) that they will be absent from their principal residence for more than 72 hours, where they will be located during their absence, and how long they will be absent.	NA	Class A misdemeanor	Class D felony
Knowingly or intentionally not notify a sheriff (or police chief) that they will spend more than 72 hours in their county or consolidated city, where they will reside while there, and how long they intend to remain in the county or consolidated city.	NA	Class A misdemeanor	Class D felony
SVP knowingly or intentionally works for compensation or volunteers on school property, at a youth program center, or at a public park.	NA	Class D felony	Class C felony*
* If the person has a prior conviction based on the person's failure to comply with any statutory requirement imposed on a sex offender.			

A Class C felony is punishable by a prison term ranging from two to eight years, a Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor. Both punishments are dependent upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in DOC facilities for all Class C felony offenders is approximately two years. The average length of stay is ten months for a Class D felony.

**Explanation of State Revenues:** *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. The maximum fine is \$10,000 for a Class

C or D felony. However, any additional revenue would likely be small.

**Explanation of Local Expenditures:** *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

**State Agencies Affected:** Criminal Justice Institute; Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Mike Eslinger, Indiana Sheriffs' Association; Indiana Criminal Justice Institute.

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